

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION**

RAMONA WINEBARGER and REX WINEBARGER,  
Plaintiffs,

**CASE NOS. 5:15CV57-RLV;  
3:15CV211-RLV**

v.  
BOSTON SCIENTIFIC CORPORATION,  
Defendant

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MARTHA CARLSON,  
Plaintiff,

v.  
BOSTON SCIENTIFIC CORPORATION  
Defendants

**PLAINTIFFS OBJECTIONS AND COUNTER DESIGNATIONS TO DEFENDANT  
BOSTON SCIENTIFIC'S COUNTER DEPOSITION DESIGNATIONS OF  
FRANK ZAKRZEWSKI TAKEN MARCH 7, 2014**

BSC Counter Designation	Objection	Plaintiffs Counter Designation to BSC Counter Designation
<b>fz030714revised, (Pages 41:2 to 42:4)</b> <b>41</b> <b>2 Paragraph 1 to the deposition</b> <b>3 notice states that, "The subject matter of</b> <b>4 Boston Scientific's notice shall be the</b> <b>5 statements concerning the use of the material</b> <b>6 for implantation in the human body</b> <b>contained</b> <b>7 in the section titled 'Medical Application</b> <b>8 Caution' on page 1 of the material safety</b> <b>9 data sheet for Phillips Sumika Polypropylene</b> <b>10 Company, Marlex polypropylenes, version</b> <b>dated</b> <b>11 January 28th, 2004, and subsequent</b> <b>versions,</b> <b>12 specifically the location of, the basis for,</b> <b>13 and the purpose of the inclusion of this</b> <b>14 language."</b>	<b>BSC has</b> <b>previously</b> <b>designated</b> <b>this</b> <b>testimony</b> <b>and</b> <b>Plaintiffs</b> <b>adopt and</b> <b>incorporate</b> <b>their</b> <b>objections as</b> <b>set forth the</b> <b>Counter</b> <b>Designations,</b> <b>if any.</b>	<b>Plaintiffs adopt and</b> <b>incorporate their counter</b> <b>designations, if any.</b>

<p>15 Did I read that correctly?</p> <p>16 A. Yes, you did.</p> <p>17 Q. And, Mr. Zakrzewski, are you</p> <p>18 prepared to talk about the topics noted in</p> <p>19 paragraph 1 of the deposition exhibit that we</p> <p>20 just covered?</p> <p>21 A. Yes, I can -- I can talk about</p> <p>22 the topics.</p> <p>23 Q. Great. And, Mr. Zakrzewski,</p> <p>24 can you please tell me what your current job</p> <p>42</p> <p>1 title is.</p> <p>2 A. Procurement operations manager.</p> <p>3 Q. And are you employed by CPChem?</p> <p>4 A. Yes.</p>		
<p>fz030714revised, (Page 44:3 to 44:11)</p> <p>44</p> <p>3 Q. I'm going to hand you what</p> <p>4 we've marked as Deposition Exhibit 3. And</p> <p>5 for the record, Deposition Exhibit 3 is a</p> <p>6 material safety data sheet for Marlex</p> <p>7 polypropylenes, all grades, dated</p> <p>8 January 28th, 2004.</p> <p>9 Do you see that down at the</p> <p>10 bottom of the first page?</p> <p>11 A. I do.</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>
<p>fz030714revised, (Page 45:3 to 45:12)</p> <p>45</p> <p>3 Q. And in the deposition notice</p> <p>4 from Boston Scientific, we specifically asked</p> <p>5 about the medical application caution</p> <p>6 language that's on the first page of the</p> <p>7 MSDS, and do you understand the medical</p> <p>8 application caution language to be what's</p> <p>9 contained in those three paragraphs under</p> <p>10 what I've just highlighted?</p> <p>11 A. Yes, I can read -- read that</p> <p>12 it's on here, yes.</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>
<p>fz030714revised, (Pages 45:24 to 46:11)</p> <p>45</p> <p>24 Q. Was the medical application</p> <p>46</p> <p>1 statement that we've highlighted in</p> <p>2 Deposition Exhibit 3 added to the</p>	<p>BSC has previously designated this testimony and</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>

<p>3 polypropylene MSDS based on any scientific 4 testing that was conducted? 5 A. Not that I'm aware of, no. 6 Q. And was the medical application 7 statement for polypropylene in the MSDS 8 marked as Deposition Exhibit 3 added based 9 on 10 any specific scientific data on 11 polypropylene? 12 A. No. Not that I'm aware of.</p>	<p>Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	
<p>fz030714revised, (Page 47:8 to 47:21) 47 8 Q. Was the medical application 9 statement that we're looking at in Deposition 10 Exhibit 3 added to the polypropylene MSDS 11 based on any review of the scientific or 12 medical literature on polypropylene? 13 A. Yeah, I'm not aware of any 14 testing or information on polypropylene 15 related to this statement. 16 Q. And was the medical application 17 statement for the polypropylene material 18 safety data sheet added to the MSDS based 19 on 20 any scientific concerns with vaginal mesh 21 specifically? 22 A. No.</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>
<p>fz030714revised, (Page 49:16 to 49:24) 49 16 Q. Okay. I'm going to hand you 17 what's been marked as Deposition Exhibit 4. 18 And for the record, Deposition Exhibit 4 is 19 an MSDS for Marlex polypropylenes dated 20 August 29th, 1997. 21 Mr. Zakrzewski, have you seen 22 this MSDS before that we've marked as 23 Deposition Exhibit 4? 24 A. Yes.</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>
<p>fz030714revised, (Pages 50:11 to 51:2) 50 11 Q. In looking at Deposition 12 Exhibit 4, the material safety data sheet 13 dated August 29th, 1997, you said you did 14 review this as part of your preparation for 15 your deposition today? 16 A. Yes. 17 Q. Anywhere in Deposition</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>

<p>18 Exhibit 4, the August 29th, 1997, MSDS, is</p> <p>19 there any medical application caution</p> <p>20 statement?</p> <p>21 A. No.</p> <p>22 Q. And in the 1997 MSDS for</p> <p>23 polypropylenes, is there any statement</p> <p>saying</p> <p>24 that polypropylenes should not be used in a</p> <p>51</p> <p>1 medical device?</p> <p>2 A. No.</p>	<p>their</p> <p>objections as</p> <p>set forth the</p> <p>Counter</p> <p>Designations,</p> <p>if any.</p>	
<p>fz030714revised, (Page 51:9 to 51:15)</p> <p>51</p> <p>9 Q. I'm going to hand you what's</p> <p>10 been marked as Deposition Exhibit 5. And</p> <p>for</p> <p>11 the record, Deposition Exhibit 5 is the</p> <p>12 material safety data sheet for Marlex</p> <p>13 polypropylenes dated February 28th, 2001,</p> <p>14 bearing the CPCChem Bates numbers starting</p> <p>at</p> <p>15 35 and ending at 41.</p>	<p>BSC has</p> <p>previously</p> <p>designated</p> <p>this</p> <p>testimony</p> <p>and</p> <p>Plaintiffs</p> <p>adopt and</p> <p>incorporate</p> <p>their</p> <p>objections as</p> <p>set forth the</p> <p>Counter</p> <p>Designations,</p> <p>if any.</p>	<p>Plaintiffs adopt and</p> <p>incorporate their counter</p> <p>designations, if any.</p>
<p>fz030714revised, (Pages 51:22 to 52:9)</p> <p>51</p> <p>22 Q. With regard to the</p> <p>23 February 28th, 2001, material safety data</p> <p>24 sheet for Marlex polypropylene, is there any</p> <p>52</p> <p>1 medical application caution contained in that</p> <p>2 document?</p> <p>3 A. No.</p> <p>4 Q. And similarly does the</p> <p>5 February 28th, 2001, material safety data</p> <p>6 sheet contain any statement that</p> <p>7 polypropylene should not be used in medical</p> <p>8 devices?</p> <p>9 A. No.</p>	<p>BSC has</p> <p>previously</p> <p>designated</p> <p>this</p> <p>testimony</p> <p>and</p> <p>Plaintiffs</p> <p>adopt and</p> <p>incorporate</p> <p>their</p> <p>objections as</p> <p>set forth the</p> <p>Counter</p> <p>Designations,</p> <p>if any.</p>	<p>Plaintiffs adopt and</p> <p>incorporate their counter</p> <p>designations, if any.</p>
<p>fz030714revised, (Pages 52:17 to 54:22)</p> <p>52</p> <p>17 Q. Are you familiar with the</p> <p>18 specific grade of Marlex polypropylene</p> <p>that's</p> <p>19 numbered HGX-030-01?</p> <p>20 A. Yes, I know of it.</p> <p>21 Q. And would that specific grade</p> <p>22 of polypropylene be covered by the material</p> <p>23 safety data sheet that we've marked as</p>	<p>BSC has</p> <p>previously</p> <p>designated</p> <p>this</p> <p>testimony</p> <p>and</p> <p>Plaintiffs</p> <p>adopt and</p> <p>incorporate</p> <p>their</p>	<p>Plaintiffs adopt and</p> <p>incorporate their counter</p> <p>designations, if any.</p>

<p>24 Deposition Exhibit 5?</p> <p>53</p> <p>1 A. Yes.</p> <p>2 Q. And would the February 28th,</p> <p>3 2001, material safety data sheet for Marlex</p> <p>4 polypropylenes apply to all grades of</p> <p>5 polypropylene as of February 28th, 2001?</p> <p>6 A. According to the data sheet,</p> <p>7 yes.</p> <p>8 Q. And would the material safety</p> <p>9 data sheet stay in effect until a new version</p> <p>10 was published?</p> <p>11 A. Yes.</p> <p>12 Q. Are you aware of any material</p> <p>13 safety data sheet for Marlex polypropylenes</p> <p>14 that contains the medical application</p> <p>15 statement prior to the January 28th, 2004,</p> <p>16 MSDS?</p> <p>17 A. I am not.</p> <p>18 Q. I want you to look with me real</p> <p>19 quick back at Deposition Exhibit 3, and,</p> <p>20 again, this is the 2004 version.</p> <p>21 Where in the MSDS does the</p> <p>22 medical application statement appear?</p> <p>23 A. First page.</p> <p>24 Q. And is there a specific section</p> <p>54</p> <p>1 that the medical application statement</p> <p>2 appears in? Is it Section 1?</p> <p>3 A. Section 1, correct.</p> <p>4 Q. And what's the title of</p> <p>5 Section 1 in the material safety data sheet?</p> <p>6 A. Product and Company</p> <p>7 Identification.</p> <p>8 Q. And if you would look with me</p> <p>9 at the next page of the 2004 MSDS, there is a</p> <p>10 specific section in the MSDS that deals with</p> <p>11 hazards. Do you see that?</p> <p>12 A. Section 3, you're referring to?</p> <p>13 Q. Correct.</p> <p>14 A. Yes.</p> <p>15 Q. Does the medical application</p> <p>16 statement appear in the hazards section of</p> <p>17 the polypropylene MSDS?</p> <p>18 A. No.</p> <p>19 Q. Mr. Zakrzewski, do you know</p> <p>20 whether or not the medical application</p> <p>21 statement that we've looked at today is</p> <p>22 unique to polypropylene MSDSs?</p>	<p>objections as set forth the Counter Designations, if any.</p>	
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<p>fz030714revised, (Pages 54:24 to 55:1) 54 24 A. No, it's not unique to 55 1 polypropylene MSDSs.</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>
<p>fz030714revised, (Pages 64:4 to 65:1) 64 4 Q. I'm going to hand you what's 5 been marked as Deposition Exhibit 7, and 6 Deposition Exhibit 7 is Bates numbered CP- 70, 7 running to 79, and it's a Marlex HGX-030-01 8 polypropylene MSDS. 9 Mr. Zakrzewski, have you seen 10 Deposition Exhibit 7 in your preparation for 11 your deposition today? 12 A. Yes, I believe I have. 13 Q. And with regard to Deposition 14 Exhibit 7, this MSDS for HGX-030-01 has what 15 revision date? 16 A. 10/17/2011. 17 Q. And the HGX-030-01 MSDS marked 18 as Deposition Exhibit 7 likewise has a 19 medical application statement in Section 1; 20 is that correct? 21 A. It does. 22 Q. And was the medical application 23 statement in Deposition Exhibit 7 placed on 24 the MSDS based on any scientific testing that 65 1 was done on polypropylene?</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>
<p>fz030714revised, (Pages 65:3 to 66:11) 65 3 A. I know of no scientific testing 4 related to this. 5 BY MR. STRONGMAN: 6 Q. And if you could look with me 7 at the very last page, Bates numbered</p>	<p>BSC has previously designated this testimony and Plaintiffs</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>

<p>8 CP-00078, on Deposition Exhibit 7, are you 9 with me?</p> <p>10 A. Page 78, yes.</p> <p>11 Q. And there's a legacy MSDS 12 number included for Deposition Exhibit 7 on 13 that page. Do you see it?</p> <p>14 A. Yes.</p> <p>15 Q. And what is the legacy MSDS 16 number that's provided?</p> <p>17 A. 240590.</p> <p>18 Q. And is that the same MSDS 19 number for the MSDSs that we were just 20 looking at?</p> <p>21 A. Yes.</p> <p>22 Q. And on the same page under that 23 same section of Deposition Exhibit 7, there 24 is an NFPA classification, do you see that?</p> <p>66</p> <p>1 A. I'm sorry, NFPA? Yes.</p> <p>2 Q. And there's a health hazard 3 category. Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And what is the number given 6 for health hazard?</p> <p>7 A. Zero.</p> <p>8 Q. Mr. Zakrzewski, are you aware 9 of Phillips adding a medical application 10 statement to any MSDS for polypropylene as a 11 result of scientific testing that was done?</p>	<p>adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	
<p>fz030714revised, (Page 66:13 to 66:13) 66</p> <p>13 A. I am not.</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>
<p>fz030714revised, (Pages 68:23 to 69:2) 68</p> <p>23 Q. All right. Mr. Zakrzewski, I'm 24 going to hand you what we've marked as 69</p> <p>1 Deposition Exhibit 8.</p>	<p>BSC has previously designated this testimony and</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>

<p>2       A.    Thank you.</p>	<p>Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	
<p>fz030714revised, (Pages 69:18 to 71:8) 69 18 Q.   Mr. Zakrzewski, have you had an 19 opportunity to review Deposition Exhibit 8? 20       A.    Yes. 21       Q.    And for the record, Deposition 22 Exhibit 8 is an agreement between PSPC and 23 Boston Scientific; is that correct? 24       A.    Yes. 70 1       Q.    And what was the effective date 2 of the agreement marked as Deposition 3 Exhibit 8? 4       A.    October 1, 2004. 5       Q.    So the effective date of the 6 agreement between PSPC and Boston Scientific 7 was after January of 2004, correct? 8       A.    October comes after January, 9 correct. 10       Q.    And looking down at the second 11 paragraph of Exhibit 8, the agreement states 12 that Boston Scientific may from time to time 13 order certain PSPC polypropylene product 14 listed in Attachment A. Do you see that? 15       A.    Yes, I see that. 16       Q.    And did you look at 17 Attachment A to Deposition Exhibit 8? 18       A.    Yes, I did. 19       Q.    And Attachment A lists 20 HGX-030-01; is that correct? 21       A.    Yes. 22       Q.    And that's a polypropylene 23 grade? 24       A.    Yes. 71 1       Q.    And based on the terms of the 2 agreement that's marked as Deposition 3 Exhibit 8, it states that the polypropylene 4 may be used by, for or on behalf of Boston 5 Scientific in the manufacture of medical</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>



<p>6 devices which may be implanted in the human</p> <p>7 body or have contact with internal body</p> <p>8 fluids or tissues; is that correct?</p>		
<p>fz030714revised, (Page 71:13 to 71:14)</p> <p>71</p> <p>13 A. The agreement gives them the</p> <p>14 right to buy resin.</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>
<p>fz030714revised, (Page 78:10 to 78:13)</p> <p>78</p> <p>10 Q. And you're not here today to</p> <p>11 offer any criticisms about any conduct of</p> <p>12 Boston Scientific; is that true?</p> <p>13 A. That's true.</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>
<p>fz030714revised, (Page 107:8 to 107:10)</p> <p>107</p> <p>8 Q. Phillips Sumika did not</p> <p>9 consider Marlex 030 to be marketed and sold</p> <p>10 for the intended use of medical devices?</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>

<p>fz030714revised, (Page 107:15 to 107:20) 107</p> <p>15 A. We don't determine suitability 16 of use. Our expertise is in producing resin, 17 and there are steps between resin and a final 18 product. We don't -- we're not experts in 19 processing. We're not experts in determining 20 how someone wants to use our product.</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	
<p>fz030714revised, (Page 141:15 to 141:21) 141</p> <p>15 Q. If you could look at Deposition 16 Exhibit 8, which is the contract between 17 Boston Scientific and PSPC. 18 A. Yes. 19 Q. All right. Do you have that in 20 front of you? 21 A. Yes, sir.</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>
<p>fz030714revised, (Pages 142:10 to 143:6) 142</p> <p>10 The third paragraph in 11 Exhibit 8 starts, "Whereas, it is PSPC's 12 understanding that (i) certain third parties, 13 including without limitation subcontractors 14 and OEMs of Boston Scientific, may from time 15 to time purchase PSPC or PSPC's distributors 16 certain PSPC polypropylene product, including 17 PSPC polypropylene product listed in 18 Attachment A for the use in the manufacture 19 of medical devices by, for or on behalf of 20 Boston Scientific." 21 Do you see that part? 22 A. Yes. 23 Q. And did I read that correctly? 24 A. Yes.</p> <p>143</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>

<p>1 Q. What is an OEM?</p> <p>2 A. Original equipment</p> <p>3 manufacturer.</p> <p>4 Q. And what's a subcontractor?</p> <p>5 A. I don't know, but I guess they</p> <p>6 would contract to an OEM.</p>		
<p>fz030714revised, (Pages 143:11 to 144:1) 143</p> <p>11 Q. The paragraph goes on Roman</p> <p>12 numeral (ii), "Boston Scientific may from</p> <p>13 time to time purchase from PSPC's</p> <p>14 distributors certain PSPC polypropylene</p> <p>15 product, including PSPC polypropylene</p> <p>16 product</p> <p>17 listed in Attachment A for use in the</p> <p>18 manufacture of medical devices by, for or on</p> <p>19 behalf of Boston Scientific.</p> <p>20 "As described in this 'Whereas'</p> <p>21 clause, PSPC polypropylene product which</p> <p>22 is</p> <p>23 not purchased directly from PSPC by Boston</p> <p>24 Scientific is hereinafter referred to as</p> <p>25 'indirect product.'"</p> <p>26 Do you see that?</p> <p>144</p> <p>1 A. Yes.</p>	<p>BSC has</p> <p>previously</p> <p>designated</p> <p>this</p> <p>testimony</p> <p>and</p> <p>Plaintiffs</p> <p>adopt and</p> <p>incorporate</p> <p>their</p> <p>objections as</p> <p>set forth the</p> <p>Counter</p> <p>Designations,</p> <p>if any.</p>	<p>Plaintiffs adopt and</p> <p>incorporate their counter</p> <p>designations, if any.</p>
<p>fz030714revised, (Page 144:4 to 144:8) 144</p> <p>4 In your experience, are there</p> <p>5 occasions when you have distributors or</p> <p>6 third</p> <p>7 parties that are the purchasers of resin from</p> <p>8 you as opposed to the ultimate</p> <p>9 manufacturer?</p> <p>10 A. Yes.</p>	<p>BSC has</p> <p>previously</p> <p>designated</p> <p>this</p> <p>testimony</p> <p>and</p> <p>Plaintiffs</p> <p>adopt and</p> <p>incorporate</p> <p>their</p> <p>objections as</p> <p>set forth the</p> <p>Counter</p> <p>Designations,</p> <p>if any.</p>	<p>Plaintiffs adopt and</p> <p>incorporate their counter</p> <p>designations, if any.</p>
<p>fz030714revised, (Pages 167:11 to 168:4) 167</p> <p>11 Q. You've answered some questions</p> <p>12 today about the Marlex resin being sold to</p> <p>13 manufacturers. Is the Marlex resin sold</p> <p>14 both</p> <p>15 to end manufacturers and to distributors?</p> <p>16 A. Yeah, I would term it "end</p> <p>17 processors," not "end manufacturers," and</p> <p>18 distributors, correct.</p>	<p>BSC has</p> <p>previously</p> <p>designated</p> <p>this</p> <p>testimony</p> <p>and</p> <p>Plaintiffs</p> <p>adopt and</p> <p>incorporate</p> <p>their</p>	<p>Plaintiffs adopt and</p> <p>incorporate their counter</p> <p>designations, if any.</p>

<p>18 Q. So you sell directly to end</p> <p>19 processors, but you also sell to</p> <p>20 distributors?</p> <p>21 A. Yes.</p> <p>22 Q. And then those distributors</p> <p>23 sell the Marlex resin on to end</p> <p>24 manufacturers</p> <p>or other distributors?</p> <p>168</p> <p>1 A. They sell to other processors.</p> <p>2 They sell to processors.</p> <p>3 Q. End processors?</p> <p>4 A. (Nods head.)</p>	<p>objections as</p> <p>set forth the</p> <p>Counter</p> <p>Designations,</p> <p>if any.</p>	
<p>fz030714revised, (Page 168:20 to 168:24)</p> <p>168</p> <p>20 Q. Did Phillips Sumika expect the</p> <p>21 end processors to make the determination as</p> <p>22 to the suitability of using Marlex resin for</p> <p>23 whichever application they chose?</p> <p>24 A. Yes.</p>	<p>BSC has</p> <p>previously</p> <p>designated</p> <p>this</p> <p>testimony</p> <p>and</p> <p>Plaintiffs</p> <p>adopt and</p> <p>incorporate</p> <p>their</p> <p>objections as</p> <p>set forth the</p> <p>Counter</p> <p>Designations,</p> <p>if any.</p>	<p>Plaintiffs adopt and</p> <p>incorporate their counter</p> <p>designations, if any.</p>
<p>fz030714revised, (Page 173:13 to 173:19)</p> <p>173</p> <p>13 Q. And does Phillips Sumika have</p> <p>14 any medical device expertise at all?</p> <p>15 A. None that I'm aware of.</p> <p>16 Q. Phillips Sumika is not a</p> <p>17 medical device manufacturer?</p> <p>18 A. No. We're a resin</p> <p>19 manufacturer.</p>	<p>BSC has</p> <p>previously</p> <p>designated</p> <p>this</p> <p>testimony</p> <p>and</p> <p>Plaintiffs</p> <p>adopt and</p> <p>incorporate</p> <p>their</p> <p>objections as</p> <p>set forth the</p> <p>Counter</p> <p>Designations,</p> <p>if any.</p>	<p>Plaintiffs adopt and</p> <p>incorporate their counter</p> <p>designations, if any.</p>
<p>fz030714revised, (Page 177:16 to 177:19)</p> <p>177</p> <p>16 Q. And do the manufacturing specs</p> <p>17 include the additives to the HGX-030-01</p> <p>18 Marlex?</p> <p>19 A. Yes.</p>	<p>BSC has</p> <p>previously</p> <p>designated</p> <p>this</p> <p>testimony</p> <p>and</p> <p>Plaintiffs</p> <p>adopt and</p>	<p>Plaintiffs adopt and</p> <p>incorporate their counter</p> <p>designations, if any.</p>

	incorporate their objections as set forth the Counter Designations, if any.	
<p>fz030714revised, (Page 178:7 to 178:19) 178</p> <p>7 Q. Are there three additives here 8 in the list for the HGX-030-01? 9 A. Yes. 10 Q. And are the three additives 11 here the Irganox 3114 and the Irgafos 168 12 and 13 the DHT-4A? 14 A. Those names are there, yes. 15 Q. Those are additives to the 16 Marlex resin, the HGX-030-01; is that right? 17 A. Yes. 18 Q. Do you know what Irganox 3114 19 is? 20 A. No.</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>
<p>fz030714revised, (Pages 178:24 to 180:10) 178</p> <p>24 Q. Do you know if it's an 179 1 antioxidant? 2 A. Yes. 3 Q. You know that it is an 4 antioxidant? 5 A. Yes. 6 Q. And Irgafos 168, do you know 7 the purpose of that additive? 8 A. It's also an antioxidant. 9 Q. And DHT-4A, do you know what 10 that is? 11 A. Not sure. 12 Q. And were these additives added 13 to the Marlex resin, the HGX-030-01, in 14 May -- starting May 31, 2002? 15 MR. MATTHEWS: Object to form. 16 A. According to this sheet, and 17 I'm going by this manufacturing spec, it 18 looks like this change was made in -- started 19 running these additives 9/11 of '97, based on 20 what I'm reading. 21 BY MR. MERRELL: 22 Q. And these three additives here, 23 those are added by Phillips Sumika to the 24 resin?</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>

<p style="text-align: center;">180</p> <p>1       A.    Yes.</p> <p>2       Q.    Do you know if there were any</p> <p>3 changes at all to the additives after May 31,</p> <p>4 2002?</p> <p>5       A.    Do I know if they were?</p> <p>6       Q.    That there were any changes to</p> <p>7 the --</p> <p>8       A.    No changes.</p> <p>9       Q.    No changes?</p> <p>10      A.    I confirmed that.</p>		
<p>fz030714revised, (Page 183:9 to 183:11)</p> <p style="text-align: center;">183</p> <p>9    Q.    To be clear, though, as you</p> <p>10 said before, you've seen no testing that led</p> <p>11 to that change in the MSDS; is that correct?</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>
<p>fz030714revised, (Page 183:13 to 183:14)</p> <p style="text-align: center;">183</p> <p>13   A.    There's no testing that I'm</p> <p>14 aware of.</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>
<p>fz030714revised, (Page 184:11 to 184:14)</p> <p style="text-align: center;">184</p> <p>11   You're not aware of any</p> <p>12 scientific basis for the medical caution</p> <p>13 statement in the MSDS?</p> <p>14      A.    I'm not.</p>	<p>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their</p>	<p>Plaintiffs adopt and incorporate their counter designations, if any.</p>

	<b>objections as set forth the Counter Designations, if any.</b>	
<b>fz030714revised, (Pages 187:21 to 188:12)</b> <b>187</b> 21 <b>Q. Mark as Exhibit 22, this is</b> 22 <b>CP-00070 to 79. And what is the date of this</b> 23 <b>document?</b> 24 <b>A. 10/17/2011.</b> <b>188</b> 1 <b>Q. Is this the material safety</b> 2 <b>data sheet for the Marlex HGX-030-01 for</b> that 3 <b>date?</b> 4 <b>A. Yes.</b> 5 <b>Q. And if you look at the second</b> 6 <b>page, under "GHS Classification" -- I'm</b> 7 <b>sorry.</b> 8 <b>Under "GHS Labeling" does it</b> 9 <b>say, "Not a dangerous substance according to</b> 10 <b>the globally harmonized system of</b> 11 <b>classification and labeling of chemicals"?</b> 12 <b>A. It says that.</b>	<b>BSC has previously designated this testimony and Plaintiffs adopt and incorporate their objections as set forth the Counter Designations, if any.</b>	<b>Plaintiffs adopt and incorporate their counter designations, if any.</b>

## 1. Objections to Counter Exhibits.

- a. BSC has previously designated Zakrzewski 4, 5, 7, 8 and 22. Plaintiffs adopt and incorporate their objects as set forth in their counter-designations, if any.

## 2. Counter Exhibits to Counter Exhibits

- a. Plaintiffs adopt and incorporate the exhibits designated in their counter designations to this witness.

DATED: July 20, 2015

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 20, 2015, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered to receive service in this MDL.

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